IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 18927 of 2005

Between:

1. Garlapati Lakshmana Swamy S/o. Venkateswarlu,

2. Smt. Garlapati Ratna Manjanri W/o. SriLakshmana Swamy,

..... PETITIONERS

AND

1. The Superintendent, Passport Office,

Door No. 8-2-215 to 219,Kummarguda,

Secunderabad-500 003.

2. The Regional Pass Port Officer, Passport Office,

Door No. 8-2-215 to 219,
Kummarguda, Secunderabad-500 003

.....RESPONDENTS

The Court made the following:

ORDER:

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Questioning the action of the first respondent in issuing the impugned proceedings No.30(4)po1/04, dated 12.08.2005 impounding the passports of the petitioners bearing Nos.B3402473, dated 15.02.2001 and A556720, dated 26.04.1991

respectively, the present writ petition has been filed.

The learned counsel for the petitioners contended that the copy of the complaint does not show that the second petitioner is an accused in C.C.No.499 of 2003 on the file of V Metropolitan Magistrate, Vijayawada, and therefore, the impugned proceedings suffers from serious infirmities.

On the other hand, the learned standing counsel for the respondents contended that an efficacious alternative remedy of statutory appeal is available with the Chief Passport Officer against the orders passed by the first respondent, and the petitioners herein without availing the said alternative remedy of appeal available to them, they straight away come to this Court through this writ petition, and hence, this writ petition is not maintainable.

No doubt, an alternative remedy is not a bar available under Section 226 of the Constitution of India. But, at least in three circumstances this Court can interfere with. Firstly, when there is violation of fundamental rights of the petitioners. Secondly, when the principles of natural justice have been violated and thirdly, when the authority, who passed the order lacks jurisdiction.

But, in the instant case, none of the conditions are attracted. Even assuming for a moment, when the second respondent is not an authority to issue the impugned proceedings, the same can be raised by filing an appeal before the competent authority.

The learned counsel for the petitioners also contends that the petitioners have not received the show cause notice dated 23.01.2004. As seen from the impugned proceedings, it is clear that the authority, who passed the order, has not received any reply from the petitioners to the said show cause notice dated 23.01.2004, which is also a question of fact to be decided by the appellate authority.

Therefore, without going into the merits of the case, I deem it appropriate to direct the petitioners to avail the efficacious alternative remedy of filing the appeal before the competent authority i.e. Chief Passport Officer, Passport Division, Ministry of External Affairs, New Delhi, in accordance with law.

With the above direction, the writ petition is disposed of. No order as to costs.

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(K.C. BHANU, J)

Date: 30.08.2005.

Ksn